

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNITED RENTALS NORTH AMERICA
Employer

and

Case 14-RC-126113

INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL 513
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election raises a substantial issue solely with respect to the inclusion of the outside sales representative in the unit found appropriate. We find that the reluctance to exclude a single employee from an otherwise appropriate unit expressed in *United Rentals*, 342 NLRB 540, 542 fn.11 (2004), is not a sufficient basis for disregarding the parties' stipulation to exclude the outside sales representative from the Cape Girardeau unit. See *Carl's Jr.*, 285 NLRB 975, 975 fn. 1 (1987) (stipulations concerning voting units are to be given effect "unless the result is inconsistent with the Act or Board policy"). Accordingly, the Decision is amended to exclude the outside sales representative employed at the Employer's Cape Girardeau facility from the unit. The Request for Review is denied in all other respects.¹

MARK GASTON PEARCE, CHAIRMAN

KENT Y. HIROZAWA, MEMBER

HARRY I. JOHNSON, III, MEMBER

Dated, Washington, D.C., May 28, 2014.

¹ In denying review, we agree with the Regional Director that the Employer has failed to rebut the presumption that the petitioned-for single-facility unit of drivers, service technicians, and inside sales representatives employed at the Cape Girardeau, Missouri facility is appropriate. We do not reach the question of whether the Board's test in *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), enfd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013), applies under the circumstances of this case.